

A Meeting of the Town Board of the Town of Orchard Park, Erie County, New York, was held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 7th day of September 2011 at 7:00 PM, the meeting was called to order by Supervisor Colarusso and there were:

<b>PRESENT AT ROLL CALL:</b>	Janis Colarusso	Supervisor
	David Kaczor	Councilmember
	Eugene Majchrzak	Councilmember
	Nancy Ackerman	Councilmember
	Edward Graber	Councilmember
	Carol Hutton	Town Clerk
	Leonard Berkowitz	Town Attorney
	Andrew Geist	Building Inspector
	Wayne Bieler	Town Engineer
	Andrew Benz	Chief of Police
	Frederick Piasecki, Jr.	Highway Superintendent

**Supervisor Colarusso read into the record the following:** "If anyone appearing before the Town Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State Law and the Town Code of Ethics."

**1) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:**

**RESOLVED**, the Executive Meetings held on August 31, 2011 as presented by the Town Clerk are hereby approved, and be it further

**RESOLVED**, that the reading of these minutes be dispensed with as each member of the Town Board has previously received copies thereof.

**The resolution was unanimously adopted.**

**New Business #1 Authorize Supervisor to sign SMEC**

**2) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER GRABER, TO WIT:**

**RESOLVED**, that the Town Board authorize the supervisor to sign the School & Municipal Energy Cooperative (SMEC) 2011-2012 Natural Gas Hedging Election Form.

**The resolution was unanimously adopted.**

**New Business #2 Authorize 2011 Commercial Parking Permits**

**3) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER GRABER, WHO MOVED ITS ADOPTION, SECONDED BY SUPERVISOR COLARUSSO, TO WIT:**

**RESOLVED**, that the Town Board does hereby authorize the following 2011 Commercial Parking Permits as recommended by the Building Inspector:

Diane Augustine	3968 Southwestern Blvd
Veronica Benes	3964 Southwestern Blvd
Kevin Bieler	3946 Southwestern Blvd
Giancarlo & Roberta Bruni	5100 Big Tree Rd.
Thomas Carrow	4243 Abbott Rd
Zachary Clark	4180 Abbott Rd
Frank & Vittoria Corsi	4297 Abbott Rd
Dan DeMarco	4270 Abbott Rd.
Joe & Diane DeMarco	3964 California Rd
Kenneth Doeing	3920 Southwestern Blvd
Sean Hanley	3944 California Rd.
Maureen Jakubowski	3796 Abbott Rd
Thomas & Paul Kam	3775 Southwestern Blvd
Sue & Patrick Kane	3952 Southwestern Blvd
Ray & Sue Kowalski	3972 Southwestern Blvd
Mark Leitzan	3808 Abbott Rd.
Mark Leitzan	3816 Abbott Rd.
Mark Leitzan	3830 Sheldon Rd.
Victor Liberatore	3807 Southwestern Blvd
John Mariano	3916 Southwestern Blvd
Lisa Matwijow	4155 Abbott Rd.
American Hammer Holdings LLC	4170 Abbott Rd.
Deborah McDonell	3904 Abbott Rd.
Niagara Frontier Recovery	3958 Southwestern Blvd
On the Go Convenience/Petro	3975 Southwestern Blvd
Arthur Petch (Interstate Asset)	3719 Abbott Rd.
Dennis Przybyl	3976 Southwestern Blvd
Quaker Boy, Inc.	5455 W. Webster Rd.
Red Carpet Inn	3940 Southwestern Blvd
Michael Simoncelli	3848 California Rd.
Scott & Linda Smith	3879 Southwestern Blvd
Southtowns Motel, Inc	3923 Southwestern Blvd
Stadium Mobil, Inc	3856 Southwestern Blvd
Stanley Holdings, LLC	180 Thorn Ave.
Patrick Sullivan	3819 Abbott Rd.
Tailgaters Bar & Grill	3847 Southwestern Blvd
David Tempestoso	3912 Southwestern Blvd
Michael & Karen Todd	3752 Abbott Rd.
Edmund Trella	4317 Abbott Rd
Stephen Tripodi	3800 Southwestern Blvd
Twin Oaks Motel	3949 Southwestern Blvd
W. J. Milligan	3864 Abbott Rd
W. J. Milligan	3892 Abbott Rd
Lee Wannemacher	3746 Abbott Rd.
Henry Whytas Jr.	5528 W. Webster Rd.
Windom Community Church	3766 Abbott Rd.
Joseph Yemma	3785 Abbott Rd.

**The resolution was unanimously adopted.**

**New Business #3 Authorize application to NYS Unified Court System**

4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize Supervisor Colarusso to submit an application to the New York State Unified Court System, 2011 Justice Court Assistance Program for the Town Court for carpet, insulation, audio recorder and laptop computers with no matching funds. The total amount requested for the proposed project will not exceed \$30,000.

**The resolution was unanimously adopted.**

**New Business #4 Authorize purchase of a new 2011 Ford Pickup Truck**

5) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER ACKERMAN, TO WIT:

**RESOLVED**, that the Town Board does hereby authorize the purchase of a new 2011 plow equipped pickup truck, in accordance with the Town truck replacement program at a total cost of \$25,937.50, and be it further

**RESOLVED**, this vehicle is to be purchased off the New York State Bid, with monies in the budget, as recommended by Highway Superintendent Piasecki.

**The resolution was unanimously adopted.**

**New Business #5 Authorize Orchard Park Jaycees request for Annual Quaker Arts Festival**

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MAJCHRZAK, TO WIT:

**WHEREAS**, the Orchard Park Jaycees wish to sponsor the 50<sup>th</sup> Quaker Arts Festival on September 17 & 18, 2011 with setup on September 16<sup>th</sup>, and they requested approval and support from the Town Board.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve the Orchard Park Jaycees' holding the 50<sup>th</sup> Quaker Arts Festival and be it further

**RESOLVED**, that the Town Board support the Jaycees' by providing the following:

- One large dumpster to keep the trash under control
- Approximately 30 trash containers
- Supply the Festival with picnic tables to be used by attendees
- Supply and erect snow fencing to section off the exhibitor areas on the Festival grounds
- Pickup & return of cones and barricades from the Comet Flasher by the Highway Department

**The resolution was unanimously adopted.**

**New Business #6 Authorize Final Change Order**

7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

**WHEREAS**, the construction work on the 2007 Building Improvements Project has been completed. On December 4, 2008, a final inspection was conducted and all of the work has since been satisfactorily completed in accordance with the contract documents and specifications, and

**WHEREAS**, due to a bond problem with New Cal Construction, Selective Insurance Company of America (surety to New Cal Construction), worked with the Town Attorney, and the Engineering Department, resulting in a two-year maintenance bond in the amount of \$545,230.00 submitted along with the Affidavit of Release of Liens, Affidavit of Subcontractor Payment and necessary legal documents, and

**WHEREAS**, the Over/Under sheet lists the final adjustments to the quantities for each bid item and shows there will be a net decrease of \$1,230.00. The Change Order was requested to adjust the final contract amount from the final Over/Under Sheet and additional work performed by another contractor to correct New Cal's work. After numerous attempts to correct a roof leak at the Highway Department Addition, Sahlem's Roofing and Siding was hired to repair the problem.

**NOW, THEREFORE, be it**

**RESOLVED**, that the Town Board does hereby approve the final Change Order and authorize Release of Retention for the 2007 Building Improvements Project and make the final payment to Selective Insurance Company of America, 40 Wantage Ave., Branchville, NJ 07890 as directed by the Town Attorney in the amount of \$33,218.00.

**The resolution was unanimously adopted.**

**Refer to Planning & Conservation Boards**

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:

**RESOLVED**, that the following request be referred to the Planning Board & Conservation Board. Mr. Ralph Lorigo, representing Ray Laks Honda requests a Special Exception Use Permit be granted for Vacant Land located at the North West corners of Southwestern Boulevard and Mid County Drive, Zoned I-1. Applicant would like to construct an Automobile Dealership at this site. (SBL# 161.07-5-37.121).

**The resolution was unanimously adopted.**

**BUSINESS FROM THE FLOOR**

**Mark Pacholec** – Police Lieutenant Pacholec stated that the Supervisor and Town Board members have incorrectly stated over the past year, that the Police Department budget is almost half of the Town's overall budget. Lieutenant Pacholec stated that he had given the correct percentage to the Town Board and asked for an explanation as to why the Police Department budget is being publicly misrepresented to the taxpayers after the information was given to them.

**David Schuster** – Mr. Schuster thanked the Town Board for reinstating the two Town Board meetings per month and for providing the Historical Society's storage space. He stated that the ICMA Analysis presentation being held after the Town Board meeting is an unusual procedure and hoped there would be an explanation as to the reason why. As to the analysis, Mr. Schuster stated he thought the Recreation Department should be trimmed, not the Police Department.

### **ELECTED OFFICIALS & DEPARTMENT HEADS**

**9) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:**

**RESOLVED**, that the following budget transfer within the 2011 Engineering Department Budget.

**\$600.00      From:** A.1440.200 Engineering Equipment      **To:** A.1440.445 Vehicle Maintenance

**The resolution was unanimously adopted.**

Supervisor Colarusso addressed Lieutenant Pacholec and stated that the Town Accountant, Wayne Drescher, was present in the audience, to explain the budget process and figures. Supervisor Colarusso addressed Mr. Schuster and stated that Sean Beiter, Union Negotiator, would explain the reason the ICMA Analysis was being held after the Town Board meeting. Supervisor Colarusso informed the audience that the Department of Environmental Conservation would be holding public hearings with a comment period on its latest review of Hydrofracking.

Police Chief Benz stated that the Nativity 5K Run would be held on Saturday, September 10, 2011, at 10:00 AM and asked that the residents be aware of runners, walkers and traffic.

**10) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR COLARUSSO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER KACZOR, TO WIT:**

**RESOLVED**, that the Town Board does hereby authorize the approval of all entries on Warrant #17 which were reviewed and approved.

<b>General Fund</b>	\$130,953.92
<b>Part Town Fund</b>	\$2,090.70
<b>Risk Retention</b>	0.00
<b>Cemetery Fund</b>	670.00
<b>Highway Fund</b>	\$18,558.01
<b>Special Districts</b>	\$138,243.95
<b>Trust &amp; Agency</b>	\$1,382.71
<b>Capital Fund</b>	\$158,066.61

**The resolution was unanimously adopted.**

There being no further business, on motion by Supervisor Colarusso, seconded by Councilmember Kaczor, the meeting was adjourned at 7:15 PM (local time).

**Respectfully Submitted,**

**Carol R. Hutton**  
Town Clerk